

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3823 OF 2005**

Dilip Bhika Choudhary ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr.R.D.Suryawanshi for the Applicant
Ms S.D.Shinde,A.P.P. for State

**CORAM: A.S.OKA,J.
DATE : JUNE 29,2005.**

P.C.:

1. Heard Shri Suryawanshi for the Applicant and the learned A.P.P. for the State. The Applicant has been arrested by Kalyan Taluka Police for the offence punishable under sections 302,498-A of the Indian Penal Code. The F.I.R. has been lodged by the father of deceased wife of the Applicant. The prosecution is placing reliance on dying declaration of the wife of the Applicant. The dying declaration discloses that the Applicant poured kerosene in a five litre can on the person of the deceased. When he attempted to light the match, he was prevented by the deceased. The allegation is that the Applicant dragged his wife to the kitchen and lighted the cooking gas. The allegation is that he set a part of her saree on fire on the cooking gas. No doubt, the dying declaration also states that the Applicant himself tried to extinguish the fire and he himself took the deceased to the hospital.

2. The learned Counsel for the Applicant pointed out that even the deceased had stated in the dying declaration that the Applicant himself extinguished the fire and took her to the hospital. He submitted that the allegation by the so called witnesses who are the neighbours are very general in nature. He relied upon the declaration allegedly signed by the deceased in which the deceased allegedly admitted that she was unable to control her temper and her behaviour with the relatives of the Applicant was inappropriate. He submitted that the Applicant has two small children and therefore he deserves to be enlarged on bail. The learned A.P.P. opposed the application by pointing out the statements of the neighbours of the Applicant.

3. I have considered the submissions. It is true that the dying declaration discloses that the Applicant tried to extinguish the fire and took the deceased to the hospital. However, the first part of the dying declaration records that the Applicant initially poured kerosene on the person of the deceased and subsequently he dragged the deceased in kitchen and set saree on her person on fire. The statements of the witnesses indicate complicity of the Applicant. At this stage, if the Applicant is relying upon the dying declaration of the deceased, even the first part of the dying declaration will have to be considered which to great extent shows involvement of the Applicant.

4. This is not a case where the Applicant can be enlarged on bail. If the Fast Track Court is available at Kalyan, trial can be entrusted to the Fast Track Court. In any event, considering the age of the Applicant and considering the fact that the Applicant has two children, the trial has to be concluded expeditiously and in any event on or before 31st December 2005. If there is any undue delay in disposal of the trial for the reasons which cannot be attributed to the Applicant, liberty to the Applicant to make a fresh application for bail.

5. Parties to act upon an authenticated copy of this order.

JUDGE